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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. EDGAR ALBERTO BACA, Defendant and Appellant.	E069907 (Super.Ct.No. SWF1501430) OPINION

APPEAL from the Superior Court of Riverside County. Kelly L. Hansen, Judge. Affirmed.

Rajan R. Maline for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, and Eric A. Swenson, Allison Acosta, and Kristine A. Gutierrez, Deputy Attorneys General, for Plaintiff and Respondent.

I. INTRODUCTION

Defendant and appellant, Edgar Alberto Baca, appeals from the judgment entered following his guilty plea to committing offenses against a minor, Jane Doe, along with a stipulated 10-year state prison sentence, and the order denying his motion to withdraw his plea. Defendant claims his motion to withdraw his plea was erroneously denied because his testimony showed his plea was not the product of his free will. He claims his defense counsel unduly pressured him to accept the plea after failing to interview prospective defense witnesses and otherwise failing to investigate the case or prepare the case for trial. He claims his counsel's failures made him feel "hopeless" about defending the charges and resulted in his decision to accept the plea. He alternatively claims his motion to withdraw should have been granted on the ground he received ineffective assistance of counsel.

We affirm. The court did not abuse its discretion in denying defendant's motion to withdraw his guilty plea. Substantial evidence supports the court's findings that defendant freely and voluntarily accepted the plea, that defense counsel did not unduly pressure defendant to accept the plea, and that defendant's testimony that he did not freely and voluntarily accept the plea was not credible.

II. FACTS AND PROCEDURAL BACKGROUND

A. *Jane Doe's Preliminary Hearing Testimony*

Jane Doe was born in October 1998 and was 17 years old when she testified at the preliminary hearing on August 12, 2016.[1] Jane first met defendant at a friend's house in October 2014 when she was 16 years old. All of Jane's friends believed she was 18 years old, and when she first met defendant, she told him she was 18 years old. Jane was a ward of the juvenile court, was unable to live at home with her mother, and was a "runaway" from her foster home. Jane lied to defendant and her friends about her age because she knew no one would "harbor" her in their homes if they knew she was "underage."

In October 2014, Jane began living in defendant's home with defendant's parents and his younger sister, and Jane and defendant slept in defendant's bedroom. In May or June 2015, Jane finally told defendant that she was only 16 years old, and around the same time defendant's parents learned Jane was underage.[2] Around June 2015, defendant and Jane moved out of defendant's parents' home and for months they lived in defendant's car.

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[1] Defendant was born in 1986.

[2] Jane also testified that, between January 2015 and before February 14, 2015, she was "caught stealing" from a store and "[c]hild [s]ervices" picked her up from jail and took her to a social services office. From there, she texted defendant, asking him to pick her up, and he did so. Jane thus indicated that, as early as February 2015, defendant knew she was underage because he knew she had run away from foster homes and was a ward of the juvenile court.

Almost "[e]very day" from February 2015 to August 2015, defendant forced Jane to engage in anal or oral sex by holding her head down, hitting her, or threatening to throw her out of his car and leave her places. Jane estimated defendant struck her 70 times, nearly every day between June 2015 and August 2015. The beatings left bruises or small cuts, usually on Jane's face. On nine or 10 occasions Jane lost consciousness after defendant beat her, and on nine or 10 occasions defendant gave Jane a "black eye." Several times, defendant forced Jane out of his car and left her in remote areas. One time, during the summer of 2015, Jane awoke on the ground in the Temecula wine country without shoes after defendant left her there following an argument.

In March 2015, defendant obtained a firearm, and on four or five occasions he put the gun to Jane's head and threatened to kill her with it. One time, defendant and Jane were in a Temecula store parking lot in defendant's car when defendant was emotionally distraught, loaded the gun, put it to Jane's head, and threatened to kill Jane and himself with it.

From October 2014 to August 2015 Jane smoked marijuana with defendant almost every day, and defendant furnished the marijuana. Jane smoked methamphetamine with defendant at least once each month from November 2014 through August 2015, and defendant furnished the methamphetamine. Around June 2015, Jane and defendant smoked methamphetamine almost every day.

B. *The 63-count Information and Enhancement Allegations*

In August 2016, the People filed a 63-count information charging defendant with the following offenses against Jane between January 2014 and August 2015: five counts of unlawfully inflicting corporal injury on a cohabitant (Pen. Code, § 273.5, subd. (a); counts 1-5), 10 counts of forcible sodomy with a child age 14 or older (Pen. Code, § 286, subd. (c)(2)(C); counts 6-15), 10 counts of forcible oral copulation with a child age 14 or older (Pen. Code, § 288a, subd. (c)(2)(C); counts 16-25), 10 counts of sexual intercourse with a child under age 18 (Pen. Code, § 261.5, subd. (c); counts 26-35), four counts of making criminal threats (Pen. Code, § 422; counts 37, 39, 41, & 43), four counts of assault with a semiautomatic firearm (Pen. Code, § 245, subd. (b); counts 36, 38, 40, & 42), 10 counts of furnishing methamphetamine to a minor (Health & Saf. Code, § 11380; counts 44-53) and 10 counts of furnishing marijuana to a minor (Health & Saf. Code, § 11361, subd. (b); counts 54-63). It was further alleged that defendant personally inflicted great bodily injury on Jane in counts 1 through 5 (Pen. Code, §§ 12022.7, subd. (e), 1192.7, subd. (c)(8)), personally used a semiautomatic firearm in counts 36 through 43 (Pen. Code, §§ 12022.5, subd. (a), 1192.7, subd. (c)(8)), and was ineligible for probation in counts 6 through 25 (Pen. Code, § 1203.065, subd. (a)).

C. *Additional Procedural History*

The felony complaint was filed on August 26, 2015, and defendant was initially represented by the public defender. On September 3, 2015, the court denied defendant's

Marsden[3] motion to relieve the public defender. In October 2015, defendant's family hired a private attorney, Hector Gonzalez-Padilla, who worked with attorneys Richard Bitters and John Kelly. Mr. Bitters represented defendant at a felony settlement conference in December 2015 and at the preliminary hearing on August 12, 2016. On August 29, 2016, defendant pled not guilty to all 63 charges in the information and denied the allegations. At a trial readiness conference on December 5, 2016, defendant, represented by Mr. Bitters, rejected the People's "15 year offer." (Defendant's sentencing exposure on counts 6 through 25 was 210 years.) Both sides announced ready for trial, and the case was set for trial on January 25, 2017.

On January 25, 2017, another private attorney, Nicolaie Cocis, was substituted in place of Mr. Bitters as defendant's counsel, and a trial readiness conference was set on February 21. On February 21, an eight-day jury trial was set on April 20, 2017. On March 28, defendant, represented by Mr. Cocis, pled guilty to counts 1, 7, and 44 in exchange for a stipulated 10-year state prison sentence.[4] The court accepted the plea and continued the sentencing hearing to April 24 so the probation department could complete a Static-99R report which measures a person's risk for sexual offense recidivism.

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[3] *People v. Marsden* (1970) 2 Cal.3d 118.

[4] As a factual basis for the plea, defendant admitted he forcibly sodomized Jane and inflicted injury on her between January 2014 and August 2015, when she was between the ages of 14 and 18 and was his girlfriend, and he also admitted he provided Jane with methamphetamine in November 2014.

On April 24, 2017, Mr. Cocis declared a conflict of interest and the public defender was reappointed to represent defendant. On August 4, 2017, the public defender filed a motion to withdraw defendant's guilty plea. On August 14, Maline & McGee LLP was substituted in place of the public defender as defendant's counsel, and on September 8, defendant's new counsel filed another motion to withdraw defendant's guilty plea.

D. *Testimony on Defendant's Motion to Withdraw His Plea*

A hearing on defendant's motion to withdraw his plea was held on November 29, 2017. Defendant, his sister, and Mr. Cocis testified.

1. Defendant's Testimony

At the hearing on his motion to withdraw his guilty plea, defendant testified he had been in custody for "[a]pproximately two years" before he entered his plea. He was initially represented by the public defender, but he hired Mr. Padilla because he wanted to go to trial and he told Mr. Padilla this "from day one." Mr. Padilla did not do the investigation work defendant asked him to do, and Mr. Padilla encouraged defendant to plead guilty rather than go to trial. Mr. Padilla sent defendant a letter in September 2016 advising defendant to accept a plea offer and warning him he could spend the rest of his life in prison. Defendant decided to hire a different attorney because he was innocent and wanted to go to trial.

A few weeks later, defendant hired Mr. Cocis. When he hired Mr. Cocis, he told Mr. Cocis about his experience with Mr. Padilla, that he was hiring Mr. Cocis to take him

to trial, and that he expected Mr. Cocis to investigate a number of things—the same things he had asked Mr. Padilla to investigate. First, he told Mr. Cocis to contact a person named Manny Terron who had received a text message from Jane stating that the allegations she had made were untrue and were her mother's idea. Second, he told Mr. Cocis he met Jane at her 18th birthday party and gave Mr. Cocis the names of several people who were at the party and whom he wanted Mr. Cocis to contact. Third, he told Mr. Cocis to investigate several text messages Jane sent after she complained to authorities that defendant had been holding her against her will and repeatedly sodomizing her. He told Mr. Cocis that Jane made her complaint to authorities on August 21, 2015, after she was arrested for shoplifting.

Mr. Cocis said he would investigate these matters through his investigator, but he did not so by March 27, 2017, the day before defendant pled guilty. That day, Mr. Cocis told defendant it would be a "waste of time" to interview the people defendant had identified and advised defendant to accept the 10-year plea deal because defendant would lose if he went to trial. Mr. Cocis told defendant he *would not* do any further investigation, but defendant did not know why he did not include that point in his declaration supporting the motion the public defender submitted.

When defendant pled guilty on March 28 he did not know Jane had undergone a "rape kit examination" around August 21, 2015, or that the examination did not show Jane had suffered trauma or anal penetration. Mr. Cocis did not tell him about the examination or its results. He pled guilty because he had "lost hope" of going to trial and

defending his innocence, and he had "no hope" that Mr. Cocis would defend him. When he pled guilty, he was doing something he did not want to do, even though he knew he could spend the rest of his life in prison if he lost at trial. He acknowledged that 10 years "seemed like a pretty good deal," but he regretted the guilty plea because he would rather have spent the rest of his life in prison than plead guilty to something he did not do. He called his sister the next day and told her he wanted to withdraw his plea.

Defendant also pled guilty because he felt "pressed for time" and "needed to make a decision" because his trial was pending on April 20, 2017, and he did not know whether the judge would allow him to change attorneys again. "[T]he lawyers" were telling him that the judge and district attorney were "getting mad" at him because the case was taking "a lot longer" than it should. When he signed the plea form, he acknowledged that "[n]o one" had "placed any pressure of any kind" on him to plead guilty. He knew what he was doing and understood the consequences of his plea. He pled guilty only because he felt "hopeless." He was not being truthful when he acknowledged the factual bases of his plea. He was "just taking the plea."

2. Defendant's Sister's Testimony

Defendant's sister helped hire defendant's private attorneys and knew they were hired in order to defend defendant at trial. She was surprised when defendant pled guilty. The next day, defendant asked her to contact Mr. Cocis in order to withdraw the guilty plea, and she did so. Mr. Cocis said he could not represent defendant in withdrawing his

plea due to a conflict of interest, but he explained how defendant could withdraw the plea.

3. Mr. Cocis's Testimony

Mr. Cocis had been a criminal defense attorney for 18 years and had conducted 20 to 30 felony trials. He never told defendant he would not conduct any further investigation on defendant's behalf, and he met with defendant a number of times. During these meetings, defendant said he "might have some friends who might have some input into the case," but he (1) never mentioned the name "Manny Terron," (2) never said Jane sent any text messages saying she wasn't being truthful about the charges and they were her mother's idea, and (3) never said he met Jane at her 18th birthday party. He would have remembered if defendant told him he met Jane on her 18th birthday.

Defendant also gave Mr. Cocis the names of several people who "wouldn't be witnesses you want to contact, because it would arise the [district attorney]'s attention," so Mr. Cocis did not contact those people. On several occasions, Mr. Cocis shared the results of Jane's rape kit examination with defendant, and Mr. Cocis recalled that the results were either inconclusive or did not show force or tearing.

Mr. Cocis represented defendant from December 2016 through March 2017. When he substituted into the case, the court indicated it was late to be substituting in and he agreed to "move the case along." He knew the trial date was pending and had been continued. When he was hired, he knew defendant wanted to go to trial and was saying

he was innocent. He also knew defendant's parents felt defendant was innocent and that the case should to go trial. He also received a copy of Mr. Padilla's letter advising defendant to plead guilty.

But he did not understand that defendant "necessarily" wanted to go to trial. He was not hired to take defendant to trial "no questions asked" because he would never accept a case "on those terms." Defendant also "changed his position" about going to trial; defendant "wanted to resolve the case" and mentioned at one point that he would take five years. Mr. Cocis and defendant had "a handful" of conversations about resolving the case, and at one point Mr. Cocis made a five-year settlement offer, but the district attorney rejected that offer. Mr. Cocis advised defendant against accepting the district attorney's 20-year offer because he believed they could do better than that.

After Mr. Cocis received the district attorney's "final" 10-year offer, Mr. Cocis spoke to defendant about it on March 27, told defendant it was the district's attorney's final offer, and asked defendant what he wanted to do about it. He told defendant: "'Think about it and let me know. Sleep on it. Let me know tomorrow what you want to do.'" He also spoke to defendant's parents and sister about the offer and told them he believed it was in defendant's best interest to accept it. Defendant "literally" slept on the offer and told Mr. Cocis he wanted to accept it when he showed up in court on March 28. If defendant did not agree to the 10-year offer, Mr. Cicos would have tried the case, and he conveyed that to defendant.

4. The Court's Denial of the Motion and Defendant's Appeal

Following the November 29 hearing, the court denied the motion on the ground defendant did not show by clear and convincing evidence that his plea was the result of "mistake, ignorance, duress, fraud, or inadvertence." The court recognized defendant was claiming he pled guilty because he "felt hopeless" and "didn't see a way for trial." But the court found defendant was not credible to the extent he was claiming his guilty plea was not knowing, voluntary or intelligent, or that his counsel unduly pressured him to accept the plea.

After it denied the motion, the court sentenced defendant to 10 years in state prison on counts 1, 7, and 44, pursuant to his guilty plea. Defendant appealed, and the court issued a certificate of probable cause.

III. DISCUSSION

A. *Defendant's Motion to Withdraw His Plea Was Properly Denied*

1. Applicable Legal Principles and Standard of Review

A guilty plea must be knowing, voluntary, and intelligent under the totality of the circumstances. (*People v. Farwell* (2018) 5 Cal.5th 295, 301-302.) A court may grant a defendant's motion to withdraw his or her guilty or no contest plea and to enter a not guilty plea "at any time before judgment" and "for good cause shown." (Pen. Code, § 1018.) The defendant must establish good cause by clear and convincing evidence, and in order to establish good cause, the defendant must show that, when the guilty plea was entered, the defendant was operating under mistake, ignorance, inadvertence, fraud,

duress, or any other factor which overcame the defendant's *free will or judgment*. (*People v. Cruz* (1974) 12 Cal.3d 562, 566; *People v. Dillard* (2017) 8 Cal.App.5th 657, 665.)

Penal Code section 1018 requires courts to err on the side of granting a motion to withdraw a plea. "[W]hen in doubt, a prejudgment motion to withdraw a guilty plea should be granted. [Penal Code s]ection 1018 by its own terms requires a liberal approach to the motion." (*People v. Spears* (1984) 153 Cal.App.3d 79, 87; see also *People v. Patterson* (2017) 2 Cal.5th 885, 894 ["[Penal Code s]ection 1018 states that its provisions 'shall be liberally construed . . . to promote justice.'"].) "[W]hen there is reason to believe that the plea has been entered through inadvertence, and without due deliberation, . . . the Court should be indulgent in permitting the plea to be withdrawn." (*People v. McCrory* (1871) 41 Cal. 458, 462.) "'[T]he withdrawal of a plea of guilty should not be denied in any case where it is in the least evident that the ends of justice would be subserved by permitting the defendant to plead not guilty instead; and it has been held that the least surprise or influence causing a defendant to plead guilty when he has any defense at all should be sufficient cause to permit a change of plea from guilty to not guilty.'" (*People v. Huricks* (1995) 32 Cal.App.4th 1201, 1210, quoting *People v. McGarvy* (1943) 61 Cal.App.2d 557, 564.)

But a plea may not be withdrawn simply because the defendant changed his or her mind. (*People v. Nance* (1991) 1 Cal.App.4th 1453, 1456.) "Postplea apprehension regarding the anticipated sentence, even if it occurs well before sentencing, is not

sufficient to compel the exercise of judicial discretion to permit withdrawal of the plea of guilty." (*People v. Hunt* (1985) 174 Cal.App.3d 95, 104.) "Guilty pleas resulting from a bargain should not be set aside lightly and finality of proceedings should be encouraged." (*Id*. at p. 103.) In ruling on a motion to withdraw a plea, the court may consider the defendant's credibility in claiming he or she has good cause to withdraw the plea. (*People v. Ravaux* (2006) 142 Cal.App.4th 914, 918.)

We review a court's ruling on a motion to withdraw a plea for an abuse of discretion (*People v. Patterson*, *supra*, 2 Cal.5th at p. 894), and we defer to the court's credibility determinations and factual findings if substantial evidence supports them (*People v. Fairbank* (1997) 16 Cal.4th 1223, 1254). An abuse of discretion is shown if the court acts in an arbitrary, capricious, or patently absurd manner, resulting in a miscarriage of justice. (*People v. Shaw* (1998) 64 Cal.App.4th 492, 496.)

2. Analysis

Defendant claims the superior court abused its discretion in denying his motion to withdraw his plea because his testimony at the hearing showed the plea was not the product of his free will. He argues the record "clearly shows" his counsel, Mr. Cocis, failed to investigate the case and prepare the case for trial, and due to Mr. Cocis's "unpreparedness" he felt "hopeless" when he entered the plea and he would not have done so "had Mr. Cocis investigated a possible affirmative defense." We conclude the court did not abuse its discretion in denying the motion.

The court found and substantial evidence shows defendant knowingly, voluntarily, and intelligently entered his guilty plea. In court on the day he entered the plea, he told Mr. Cocis, "'Yes, I'm willing to resolve the case.'" Since the previous day, he had been considering whether to accept the prosecution's "final" 10-year plea offer. He signed the plea form and initialed every line, including the line stating, "[n]o one" had "placed any pressure of any kind" on him to "make" him "plead guilty." At the change of plea hearing, he told the court he understood the rights he was waiving and he wished to waive those rights and plead guilty. At the hearing on his motion, he again acknowledged he knew what he was doing when he signed the plea form and entered his plea. All of this evidence shows defendant's plea was knowing, voluntary, and intelligent, and that defendant simply changed his mind about his plea.

Substantial evidence also supports the court's finding that defendant was not a "credible witness," particularly to the extent defendant claimed he felt "hopeless" about his defense because Mr. Cocis failed to investigate his case and prepare the case for trial. Mr. Cocis's testimony belied this claim, and the court reasonably could have credited Mr. Cocis's testimony. Mr. Cocis testified defendant did not give Mr. Cocis some of the information defendant claimed he had given him about potential evidence and witnesses. Mr. Cocis discussed the results of Jane's rape kit examination with defendant several times before defendant pled guilty, and he did not interview some witnesses for strategic reasons because they would have been unhelpful to the defense. Mr. Cocis denied telling

defendant he would not conduct any further investigation of the case, and told defendant he would try the case if defendant did not plead guilty.

The court also pointed out, and substantial evidence shows, that defendant "went through several attorneys, both public and private. His case was continued post-prelim several times. One of the continuance forms indicates that it was continued for the purposes of disposition, [indicating] that the parties anticipated that there would be a plea in the future, and that's why they were continuing the case." Thus, the court reasoned that defendant's attorneys "were trying to resolve this case from early on," and defendant "could not have been caught off guard or surprised by the fact that the attorneys were trying to continue this case for purposes of disposition, because he signed the continuance forms. Indeed, the record indicates that defendant wanted a plea deal; otherwise, he would not have agreed to continue the case for so long following the preliminary hearing. He just changed his mind about accepting the 10-year plea deal.

Defendant argues this case is comparable to *People v. Weaver* (2004) 118 Cal.App.4th 131, but *Weaver* is inapposite. There, the *trial court* engaged in "highly inappropriate" conduct in pressuring the defendant to accept a plea bargain. (*Id*. at pp. 136-145, 149-150.) Among other things, the court told the defendant he would be "taking a big risk" by going to trial given his sentencing exposure, that the court was concerned about the child victims being "victimized" a second time by having to testify, and indicated that the court believed the defendant was dangerous and would not receive a fair trial. (*Id*. at pp. 135-145.) The court's statements overcame the defendant's "free

judgment" in pleading guilty; thus, the court abused its discretion in denying the defendant's motion to withdraw the plea. (*Id*. at pp. 149-150.) This case is in no way comparable to *Weaver*, because there is no evidence that the court exerted any pressure on defendant to accept the terms of his guilty plea, and substantial evidence supports the court's finding that Mr. Cocis did not pressure defendant to accept the plea.

B. *Defendant Has Not Demonstrated Ineffective Assistance of Counsel*

Defendant next claims the court erroneously refused to allow him to withdraw his plea on the ground Mr. Cocis rendered ineffective assistance of counsel in failing to interview the potential witnesses defendant identified to him. He claims he was prejudiced by Mr. Cocis's failure to contact these witnesses, and to otherwise investigate the case, because he would not have pled guilty had Mr. Cocis conducted a "meaningful investigation."

To establish ineffective assistance of counsel, a defendant must show: (1) counsel's representation fell below an objective standard of reasonableness; and (2) there is a reasonable probability that, but for counsel's unprofessional errors, the defendant would have realized a more favorable result. (*Strickland v. Washington* (1984) 466 U.S. 668, 687-688; *People v. Holt* (1997) 15 Cal.4th 619, 703.) "'It is well settled that where ineffective assistance of counsel results in the defendant's decision to plead guilty, the defendant has suffered a constitutional violation giving rise to a claim for relief from the guilty plea.'" (*In re Resendiz* (2001) 25 Cal.4th 230, 239.) A plea must be set aside if

the defendant is unduly influenced to accept the plea because his counsel is "obviously not prepared to proceed." (*In re Vargas* (2000) 83 Cal.App.4th 1125, 1142.)

Defense counsel have an obligation to investigate all defenses and to explore the factual bases for defenses. (*People v. Maguire* (1998) 67 Cal.App.4th 1022, 1028.) More generally, "[d]efendants are '"entitled to the reasonably competent assistance of an attorney acting as [their] diligent and conscientious advocate. [Citation.] This means that before counsel undertakes to act, or not to act, counsel must make a rational and informed decision on strategy and tactics founded upon adequate investigation and preparation."'" (*In re Vargas, supra,* 83 Cal.App.4th at p. 1136.) "[W]here the record shows that counsel's omissions resulted from an informed tactical choice within the range of reasonable competence, the conviction must be affirmed. [Citation.] [But] where the record shows that counsel has failed to . . . investigate the facts in the manner of a diligent and conscientious advocate, the conviction should be reversed since the defendant has been deprived of adequate assistance of counsel." (*People v. Pope* (1979) 23 Cal.3d 412, 425-426.)

The record shows Mr. Cocis had a tactical reason for not contacting or having his investigator contact and interview the potential witnesses defendant identified to Mr. Cocis as possibly helpful to the defense. Mr. Cocis testified that defendant "mentioned that there might be some friends of his from high school that may help the case." But Mr. Cocis did not contact or have his investigator contact "those witnesses . . . the names that he mentioned" because those witnesses would attract "the [district attorney]'s attention."

Mr. Cocis also indicated that these potential witnesses were relevant only to the methamphetamine-related charges. The court was entitled to credit Mr. Cocis's testimony, and it supports a reasonable inference that defendant's association with these potential witnesses would have had negative repercussions for him. Thus, these potential witnesses were not worth contacting because they would not have benefited the defense.

Mr. Cocis further testified defendant did not identify any other potential witnesses, including "Manny Terron," never mentioned he met Jane at her 18th birthday party, and never mentioned that Jane had sent any text messages saying the charges were false and were her mother's idea. Furthermore, Jane's preliminary hearing testimony indicated that all of the charges against defendant were based on acts that occurred when Jane and defendant were alone together. Thus, the record shows there were no potential witnesses or other matters to investigate.

Lastly, the court found defendant was not a credible witness. Thus, the court reasonably could have discredited defendant's claims about what he told Mr. Cocis he wanted Mr. Cocis to investigate and could have discredited defendant's claim that he would not have pled guilty had Mr. Cocis conducted a "meaningful investigation." Mr. Cocis also denied telling defendant that, if defendant did not plead guilty, then Mr. Cocis would not conduct any further investigation on defendant's behalf. The record shows Mr. Cocis was an experienced criminal defense attorney who was competent to defend and who would have defended defendant at trial had defendant not pled guilty. (Cf. *In re Vargas*, *supra*, 83 Cal.App.4th at pp. 1136-1142 [petitioner made prima facie showing

that his defense counsel rendered ineffective assistance in failing to investigate the facts of the case, in failing to prepare for trial, and in coercing the petitioner to plead guilty].)

IV. DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

FIELDS
J.

We concur:

RAMIREZ
P. J.

CODRINGTON
J.